

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

**United States of America**

**v.**

**Criminal No.  
09-cr-88-03-PB**

**Marco Garcia**

**NOTICE OF RULING**

Re: Document No. 291, Motion for New Trial

Ruling: This is not a close case. The defendant does not present any evidence in support of the motion that qualifies as newly discovered. Nor has he otherwise explained why the arguments he presents in support of his motion are not subject to the time requirement set forth in Rule 33. In reaching this conclusion, I reject any suggestion that the affidavit submitted in support of the motion qualifies as newly discovered evidence because it is clear from the affidavit that the information contained therein would have been known to the defendant at the time of trial. Because the defendant did not file a timely motion for new trial, his motion is denied. In making this ruling, I have relied on the government's persuasive memorandum submitted in opposition to the motion. Motion denied.

Entered by Paul Barbadoro, United States District Judge

Date: February 8, 2013